

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL S. NOFFSINGER,

Plaintiff,

V.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

Case No. 10-5878 RBL/KLS

REPORT AND RECOMMENDATION

MICHAEL J. ASTRUE, Commissioner of
Social Security,

This matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule MJR 4(a)(4) and as authorized by Mathews, Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on the stipulated motion for remand. (ECF #22). After reviewing the parties' stipulated motion and the remaining record, the undersigned recommends that the Court grant the parties' motion, and remand this matter to the Commissioner for further proceedings.

This Court recommends that on remand the ALJ shall conduct a de novo hearing to clarify whether the residual functional capacity (RFC) excludes all stooping or to what degree stooping is limited; obtain vocational expert testimony regarding erosion of the occupational base for any reason, including a restriction that Plaintiff is limited to less than occasional stooping; evaluate and weigh the new and material evidence from James Wyman, M.D., submitted with the request for Appeals Council review, which is relevant to the ALJ's evaluation of Plaintiff's severe knee impairment and the RFC for the period at issue; and clarify the mental

1 RFC, specifically the limitation that Plaintiff could have “superficial” contact with the public but
2 should avoid “prolonged and excessive collaboration” with co-workers and supervisors. Plaintiff
3 may submit additional evidence and arguments on remand and that those other aspects of the
4 ALJ’s prior decision not specifically addressed here are not specifically affirmed.

5 Given the fact of the parties’ stipulation, the Court recommends that the District Judge
6 immediately approve this Report and Recommendation and order the case **REVERSED** and
7 **REMANDED**. A proposed order accompanies this Report and Recommendation.

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9 DATED this 24th day of May, 2011.

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12 Karen L. Strombom
13 United States Magistrate Judge
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